

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MOZLY TECH LLC

§

Plaintiff,

§

Case No:

vs.

§

PATENT CASE

AVAYA INC.

§

Defendant.

§

COMPLAINT

Plaintiff Mozly Tech LLC (“Plaintiff” or “Mozly”) files this Complaint against Goldmine a Avaya Inc. (“Defendant” or “Avaya”) for infringement of United States Patent No. 7,367,044 (hereinafter “the ‘044 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its principal office located at 3400 Silverstone Dr., Suite 191-G, Plano, Texas 75023.

4. On information and belief, Defendant Avaya Inc. (“Avaya”) is a Delaware corporation with a principal place of business in California. On information and belief, Avaya can be served with process by serving its registered agent: The Corporation Trust Company; Corporation Trust Center, 1209 Orange St., Wilmington, DE 19801.

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the Eastern District of Texas.

VENUE

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(c) and 1400(b) because Defendant is deemed to reside in this district. In addition, and in the alternative, Defendant has committed acts of infringement in this District.

COUNT I
(INFRINGEMENT OF UNITED STATES PATENT NO. 7,367,044)

8. Plaintiff incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

10. Plaintiff is the owner by assignment of the '044 Patent with sole rights to enforce the '044 Patent and sue infringers.

11. A copy of the '044 Patent, titled "System and Method for Network Operation," is attached hereto as Exhibit A.

12. The '044 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

13. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 1, of the '044 patent by making, using, importing,

selling, and/or offering for sale a customer relationship management (“CRM”) tool and a contacts maintenance tool, both of which are covered by one or more claims of the ‘044 patent. Defendant has infringed and continues to infringe the ‘044 patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

14. Defendant sells, offers to sell, and/or uses CRM tools and contact maintenance tools including, without limitation, Avaya CRM, Avaya Aura Web Collaboration Agent, and any similar products, which infringe at least Claim 1 of the ‘044 Patent. These products allow for the creation and maintenance of a list of contacts and contact information, such as contact phone numbers, for example, for a particular user. The user is associated with the list via a user account. The user account can be associated with a new telephone so that the new telephone can dial the phone numbers for the contacts.

15. Defendant’s actions complained of herein will continue unless Defendant is enjoined by this court.

16. Defendant’s actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

17. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 7,367,044 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);
- (c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff pre-judgment and post-judgment interest and costs; and
- (e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: November 25, 2015

Respectfully submitted,

/s/ Jay Johnson

JAY JOHNSON

State Bar No. 24067322

D. BRADLEY KIZZIA

State Bar No. 11547550

ANTHONY RICCIARDELLI

State Bar No. 24070493

KIZZIA JOHNSON, PLLC

750 N. St. Paul Street, Suite 1320

Dallas, Texas 75201

(214) 613-3350

Fax: (214) 613-3330

jay@kjpllc.com

bkizzia@kjpllc.com

anthony@brownfoxbill.com

ATTORNEYS FOR PLAINTIFF

EXHIBIT A